

EXHIBIT V

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA, et al.,

Plaintiffs,

V.

EDUCATION MANAGEMENT CORP., et al.,

Defendants.

Civil Action No. 07-461

Judge McVerry

DECLARATION OF TODD M. HALEY

I, Todd M. Haley, declare as follows:

1. I am Vice President of eTERA Consulting, LLC (“eTERA”), a computer forensic investigation and e-discovery consulting firm, located in Washington, District of Columbia. I have personal knowledge of the facts set forth in this declaration, and if called as a witness, I could and would testify to the facts set forth herein.
2. Over the past six years, I have directed and managed hundreds of electronic discovery processes and forensic examinations. eTERA has been recognized by the National Law Journal and other legal industry leaders as one of the top electronic discovery and data management companies in the United States. Prior to my experience at eTERA, I was a Chief Technology Officer for over seven years at a national defense firm that specialized in complex litigation and discovery matters. Overall, I have over 20 years of legal technology experience.

3. As an electronic discovery expert, I have written multiple articles on the subject, including white papers on forensics analysis, electronic discovery and complex electronic discovery. Additionally, I am an avid blogger on the subject and have spoken at many of the national conference on the subject.
4. eTERA has been retained to provide an estimate for the restoration of data from backup tapes and the extraction of .pst files to the point where they are in native, live format and ready to be processed, hosted and reviewed.

Step 1: Cataloging of 2,331 Backup Tapes

5. Based on the information and assumptions contained in the March 12, 2014 Declaration of Susan A. Ardisson (“the Ardisson Declaration”), there are approximately 2,331 disaster recovery backup tapes that require restoration before any data can be extracted and processed.
6. To restore and extract data from the 2,331 tapes at issue, eTERA will perform a two-step process. The first step is a high-level cataloging of the 2,331 tapes to determine which tapes contain e-mail. This process will allow eTERA to analyze the tape content index, enabling our specialists to identify those tapes which contain e-mail files requiring extraction.
 - a. eTERA will require approximately 40 to 50 days to complete the cataloging process for 2,331 tapes.
 - b. The cost to catalog these 2,331 tapes is \$35 per tape, for a total of \$81,585.
 - c. Technical services costs associated with this cataloging process total \$1,631.70.

- d. The total cost, including technical services, to catalog the 2,331 tapes is $\$81,585 + \$1,631.70 = \$83,216.70$.

Step 2: Restoration and Extraction of .pst Files

- 7. After the tapes have been cataloged, the second step of the process is the restoration and extraction of .pst files from those tapes which contain Exchange Database Files (“EDBs”). The Ardisson Declaration estimates that there should be approximately 648 tapes containing EDBs and a total of 1,368,000 .pst files for the time period between September 2009 and December 2012.
- 8. To restore and extract the total estimated 1,368,000 .pst files for the period from September 2009 to December 31, 2012 will require approximately 90 to 110 days to complete. This restoration and extraction can begin in parallel with the cataloging process so that the total turnaround time is less than the sum of both the cataloging and restoration steps.
 - a. The cost to restore the .pst files from 648 tapes is \$160 per tape for a total of \$103,680.
 - b. After the .pst files are restored, the cost to extract 1,368,000 .pst files is \$0.35 per file for a total of \$478,800.
 - c. Technical services costs associated with restoring and extracting 1,368,000 .pst files total \$11,649.60.
 - d. The total cost to restore and extract 1,368,000 .pst files from 648 tapes, including technical services costs, is $\$103,680 + \$478,800 + \$11,649.60 = \$594,129.60$.

9. As an alternative, to restore and extract the proposed sample of 360,000 .pst files (5,000 from each of the 72 backup sets from September 2009 to December 2012) will require approximately 30 to 40 days to complete. This restoration and extraction can begin in parallel with the cataloging process so that the total turnaround time is less than the sum of both the cataloging and restoration steps.
 - a. The cost to restore the .pst files from 648 tapes is \$160 per tape for a total of \$103,680.
 - b. After the .pst files are restored, the cost to extract 360,000 .pst files is \$1.05 per file for a total of \$378,000.
 - c. Technical Services costs associated with restoring and extracting 360,000 .pst files total \$9,633.60.
 - d. The total cost to restore and extract 360,000 .pst files from 648 tapes, including technical services costs, is $\$103,680 + \$378,000 + \$9,633.60 = \$491,313.60$.
10. Although the Ardisson Declaration does not estimate .pst volume for the February 2002 to August 2009 time period, there are 67 backup sets during that period, and the Ardisson Declaration has assumed 9 tapes and 19,000 extractable .pst files per backup set in its other calculations. Based on those assumptions, we estimate there to be a total of 1,273,000 .pst files on 603 backup tapes for the period between February 2002 and August 2009. Combining this number with the estimated 1,368,000 .pst files on 648 tapes for the September 2009 to December 2012 period, we estimate a total of 2,641,000 .pst files on 1,251 tapes for the period between February 2002 and December 2012.

11. To restore and extract 2,641,000 .pst files from 1,251 tapes will require approximately 100 to 130 days to complete. This restoration and extraction can begin in parallel with the cataloging process so that the total turnaround time is less than the sum of both the cataloging and restoration steps.
- a. The cost to restore the .pst files from 1,251 tapes is \$160 per tape for a total of \$200,160.
 - b. After the .pst files are restored, the cost to extract 2,641,000 .pst files is \$ 0.23 per file for a total of \$607,430.
 - c. Technical Services costs associated with restoring and extracting 2,641,000.pst files total \$16,151.80.
 - d. The total cost to restore and extract 2,641,000 .pst files from 1,251 tapes, including technical services costs, is $\$200,160 + \$607,430 + \$16,151.80 = \$823,741.80$.

Summary

12. The total cost to catalog the 2,331 backup tapes is \$83,216.70 and will require 40 to 50 days to complete.
13. After cataloging the tapes, the total cost to restore and extract 1,368,000 .pst files is \$594,129.60 and will require 90 to 110 days to complete.
14. If, after cataloging the tapes, only 360,000 .pst files are selected for restoration and extraction, the cost of that process will be \$491,313.60 and will require 30 to 40 days to complete.

15. Alternatively, after cataloging the tapes, the total cost to restore and extract all 2,641,000 .pst files from the estimated 1,251 tapes covering the February 2002 to December 2012 time period will be \$823,741.80 and will require 100 to 130 days to complete.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration was executed on March 27, 2014 at Washington, District of Columbia.

A handwritten signature, "Todd M. Haley", followed by the date "3/27/2014", written over a horizontal line.

Todd M. Haley



Todd M. Haley

Vice President, Business Intelligence

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EDUCATION

B.S., Longwood University

CERTIFICATIONS AND MEMBERSHIPS

- Clearwell Certification
- Catalyst Certification
- Microsoft Certification
- Other Technology Certifications

ACTIVITIES

Adjunct Professor, Georgetown University, Paralegal Studies Program

eTERA Consulting - Nominated by The National Law Journal for second consecutive year as one of the "best end to end electronic discovery consulting firms in the country"

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As Vice President of Business Intelligence, Todd Haley is responsible for managing eTERA Consulting's Client Delivery System (CDS) team and all processes, procedures and reports necessary to ensure the handling of all client eDiscovery and data management projects. Mr. Haley brings his experience as Chief Technology Officer, directing both IT and litigation support in a nationally recognized consulting firm to the forefront. At eTERA, he regularly consults clients on how to plan a defensible electronic discovery and data retention strategies. Mr. Haley has over 16 years of information technology and litigation support experience. He brings a different perspective to the litigation support arena, applying the managed services, information governance and workflow protocols of the information technology arena to litigation support. He specializes in complex electronic discovery, information governance and data technology, including matters throughout the EDRM model. He is an Adjunct Professor on legal technology at Georgetown University and a frequent author and speaker on electronic discovery, litigation support and information technology. He was recently recognized by SmartCEO as a top CIO/CTO in the greater Washington area. As a 2013 SmartCEO Executive Management Award winner, Mr. Haley was recognized for his creative management vision, leadership philosophy, innovative strategy and undeniable work ethic.

Previously, Todd was the Chief Technology Officer at a national litigation law firm specializing in products liability, toxic tort and insurance litigation. He was the primary architect in the development of their information technology and litigation support strategies and departments. As Chief Technology Officer, he consulted with clients and co-counsel on litigation hold strategies, record retention and regulatory technology issues, workflow process, employee compliance, document designation best practices and defensible approaches to overall litigation matters. He managed large document discovery projects, which included 70+ contract attorney teams plus multiple web-based document review systems, including Introspect, iConect, Cataphora, Catalyst and Ringtail, for large document discovery projects, including joint defense litigation, while providing tight integration with internal systems. Todd also designed, developed and implemented one of the first-ever, in-house, web-based document review system using a proprietary integrated system of Interwoven, Concordance, IPRO, LiveNote, iConect and other litigation support web-based tools.

A frequent author and speaker on e-discovery, litigation support and information technology, Todd has written on diverse topics, such as the implementation of enterprise-class case management systems and the proper processes and protocols necessary to implement successful electronic discovery strategies. He has delivered speeches on electronic discovery and information technology at the DC Bar Association, the International Legal Technology Association, Estrin LegalED Seminars, Glasser LegalWorks conferences, various litigation support group forums and private conferences to lawyers and legal staff. Todd has also educated lawyers and litigation support personnel in complex case management and litigation process management.